

Activities at a Glance- 2009

SN	Subjects	Numbers/ Events	Themes/Areas
1	HR Protection Related		
1.1	Complaints Received	553	Killing, abduction, disappearance, threats, torture, displacement, ESC rights, bomb blasts, property seizure, etc.
1.2	Total Number of Decisions/ Recommendations	631	Regarding 5623 victims/ persons
1.2.1	Decisions Held	531	Killing, abduction, disappearance, threats, torture, displacement, ESC rights, etc.
1.2.2	Dismissal /Revoking	21	Torture, displacement, ESC rights, etc.
1.2.3	Pending/Withheld	4	Threats, ESC Rights, torture, etc.
1.2.4	Recommendations (for restitution, prosecution, departmental action or interim relief)	82	Killing, bomb blasts, disappearance, abduction, displacement, torture, threats, property seizure, rights of prisoners, etc.
1.2.5	Policy Recommendations	5	Ratification of ICC statute, abolition of harmful traditional practices such as <i>Haliya, Kamalari</i> , religious harmony, enacting TRC and disappearance related law
1.3	HR Situation monitoring	194 (Missions deployed)	HR situation in general, child rights, women rights, IDPs, detainees' and prisoners' rights, demonstrations, strikes, road blockades and protests (organized by various

			groups/ political parties)
1.4	Investigation in Complaints of HR Violation	255 Cases (77 Missions deployed)	Killing, bomb blasts, disappearance, IDPs, abduction, displacement, torture, threats to life and property, rights of detainees and prisoners
2	HR Promotion		
2.1	HR Advocacy (Interactions, dialogues, public hearing, focus group meetings, lobbying, exhibition, sports, rallies, demonstration, pamphlets and poster campaigns)	126	At different levels around the country
2.2	Conference, Training, Workshop, Education	59	Including 3 international events
2.3	Expertise Services	200 plus	Provided in the form of lectures, inputs and key note speeches by the Commissioners/senior officers, and as trainer/facilitators by officers mainly to security agencies and CSO sponsored programs on various themes
3	Publications		
3.1	Regular Publications	14 (2+12)	NHRC annual report, annual report on the status of the rights of the child, Human Rights Post (NHRC monthly newsletter)
3.2	Periodic Reports	9	HR situation after signing the CPA, disappearance, torture, constitution making, ICC ratification, IDPs ,

			human trafficking, implementation status of NHRC recommendations, ESC rights
3.3	Regional Office Publication	1	HR situation report
3.4	Booklets	2	HR basic (Q &A), NHRC introductory
3.5	Brochure	2	IDPs
3.6	Press Releases	81	Various issues
3.7	Press Conferences	4	Different issues
4	Legal/Policy Support		
4.1	Advisory to Nepal Government	5	ICC ratification, abolition of harmful traditional practices such as <i>haliya and kamlari</i> , religious tolerance
4.2	Law Review	3	NHRC Bill, Disappearance Bill, TRC Bill
4.3	Treaty Monitoring	1	CEDAW
5	Human Rights Resource Center	318 books primarily on HR added in HR resource centre	
6	Human Resource		
6.1	Chairperson and Commissioners	5	
6.2	Professional Officers	59	
6.3	Assistants (Professional)	24	
6.4	Office Assistants (Help/support)	60	

NHRC Activities -2009

Introductory

The National Human Rights Commission of Nepal was established on May 26, 2000 under the Human Rights Commission Act of 1997. The Interim Constitution of Nepal, 2007 has elevated NHRC as a



Chairperson Upadhyay submitting NHRC Annual Report to President Dr Ram Baran Yadav

constitutional body giving a wide range of mandates relating to the promotion and protection of human rights. The Commission comprises of the Chairperson and four commissioners, who have been appointed for six years by the Head of the State (President) at the recommendation of the Constitutional Council. Their appointment was confirmed by the parliamentary committee hearing.

The NHRC was formed under article 131 of the Constitution, which outlines the Commission's power and functions. According to the provision, NHRC has to submit its annual progress report to the President, who then refers it to the Parliament through the Prime Minister. The Annual Report covers a wide range of activities carried out by NHRC during the year. In substance the report provides an overview of the

human rights situation and the challenges that NHRC experienced during the year.

NHRC Chairperson Justice Kedar Nath Upadhyay recently submitted the past year's Annual Report to Hon President Dr. Rambaran Yadav at the President's Office. It was held amid a simple ceremony attended by the commissioners and senior officers of NHRC, senior staffs of the office of the President and media persons. Speaking at the occasion, Justice Upadhyay noted that last year remained very challenging in terms of human rights.

Justice Upadhyay gave a brief picture of the human rights situation in the country to the President. He highlighted impunity, deteriorating law and order situation, extrajudicial execution, abduction, torture and internal displacement as the major issues of human rights during the year. He also mentioned the diarrhoea epidemic that claimed nearly 400 lives in various districts in the mid and far western regions. He observed that the government's slow response to the epidemic caused unfortunate loss of lives, and many of them children, women and people of disadvantaged *dalit* community.

The Hon President thanked the NHRC for preparing and submitting the report.

Complaints and Investigation

During the year 553 complaints of human rights violations were filed at various offices

of NHRC. The Constitution defines investigation and monitoring of human rights as the core function of NHRC.

Primary complaints related to abductions, extortions, killing, road blockades, cases of



NHRC team during investigation of a case of disappearance

violence such as bomb blasts, during the year. Various missions were deployed by NHRC offices to investigate the complaints received.

The cases of killing, abduction, disappearance and torture were given high priority for investigation. The missions carried out investigations in diverse issues including those related to child rights, women' rights, minority rights and ESC rights.

Complaints Received in 2009-A Fact Sheet

S N	Issue of HR Violation	Responsible Group												
			January	February	March	April	May	June	July	August	September	October	November	December
1	Right to life	Security Forces	3	5	5	1	5	1	2	6	2	2	3	2
		UCPN-M	-	2	-	3	2	1	-	1	2	1	-	1
		Others	1	-	2	1	2	1	1	-	1	2	-	-
2	Disappearance/ Abduction	Security Forces	3	4	4	4	4	3	-	2	2	-	2	2
		UCPN-M	2	5	-	-	1	2	2	6	-	1	-	-
		Others	6	2	2	3	6	4	7	2	-	2	2	3
3	Torture and Harassment	Security Forces	6	6	4	6	8	5	7	3	5	1	6	-
		Others	-	-	3	6	-	-	8	3	-	1	-	-
4	Casualties and Manhandling	Security Forces	-	1	-	1	-	1	-	-	2	1	1	1
		UCPN-M	3	-	-	-	-	-	-	7	-	-	-	-
		Others	-	-	-	-	1	2	-	1	-	-	-	-
5	Displacement	Security Forces	1	1	-	-	-	-	-	-	-	-	-	-
		UCPN-M	4	5	1	4	-	-	2	-	-	-	3	-
		Others	-	-	-	-	1	1	3	-	1	1	-	-
6	Property Seizure	Security Forces	-	1	-	-	-	-	1	-	-	-	-	-
		UCPN-M	2	2	-	3	1	-	2	2	-	-	1	1
		Others	-	1	-	1	1	-	1	-	-	1	1	-
7	Threats	Security Forces	-	-	1	-	2	-	-	-	1	-	3	-

		UCPN-M	1	-	-	2	2	-	1	-	-	1	-	-
		Others	1	-	-	2	4	-	1	3	1	1	1	2
8	Prison/detention related		-	-	1	5	1	1	1	-	3	-	3	1
9	Compensation		3	-	-	2	-	-	1	1	3	2	1	-
10	Civil Rights		4	2	-	3	1	2	-	-	-	-	-	-
11	ESC Rights		2	2	4	7	5	1	2	-	3	2	3	3
12	Women Rights		4	4	3	6	3	5	2	4	4	4	3	-
13	Child rights		3	2	2	-	-	4	1	1	2	-	2	-
14	Administration of Justice		11	3	4	4	6	1	4	2	4	4	1	6
15	Nepali Migrant workers		-	-	-	-	-	-	1	-	-	-	-	-
	Others		6	13	2	1	2	1	1	-	2	-	1	-
	Total		66	61	38	65	58	36	51	44	38	27	47	22

The NHRC received complaints relating to the killing of 73 persons. They were killed by various parties such as security forces, CPN (M) and other armed groups. The details of persons killed and responsible groups are given in the table below:

SN	Alleged Groups	People Killed
1	Security Forces (Police)	34
2	CPN-M	15
3	Other groups	24
	Total	63

Monitoring of Human Rights Situation

The NHRC offices monitored human rights situation in various parts of the country. A total of 194 missions were deployed during the year. The missions visited most of the districts covering the mountain, hill and terai regions. The monitoring reports indicate that human rights situation during the year was not really satisfactory. Security situation remained remarkably weak. People's lives were severely disrupted due to recurring strikes and protests in different parts of the country. The central/eastern terai and eastern hills were seriously affected. Grave incidents of human rights violations monitored during the year are as follows:

The NHRC monitored incidents of inhumane killing of more than 12 outsiders by local people in various places of middle Terai districts. Villagers killed the outsiders on suspicion that they had come to abduct local children. Some of them were gruesomely burned to death. Some were lynched by mobs using bricks and sticks.

The NHRC monitored a similar incident that took place in Madhyapur Thimi area, within the Kathmandu Valley. In this incident a mob of locals killed four innocent schoolboys by pelting bricks, stones and iron at them. Two of them were living in neighboring shelters for internally displaced people. Their family had been displaced from western hills during the conflict and their living conditions were very poor. The youths were attacked by the mob on suspicion that they had come to abduct local children.

The diarrhoea epidemic that spread over 18 districts in mid-western hills for over three months during the summer of 2009 claimed nearly 400 lives. More than 65 thousand people were affected by the epidemic and cured after various forms of treatment. The hardest-hit districts were Jajarkot, Rukum, Dailekh and Kalikot of the Mid West region. Those who died were mostly women, children and people of disadvantaged *dalit* communities.

The NHRC monitored the issue in the context of the right to life and the right to healthcare enshrined in the Constitution of Nepal and a number of international human rights instruments. The NHRC findings showed that the government, in particular the health administration, was unable to fulfill its accountability and obligation. NHRC found that government was ill-prepared to ensure people's right to health care and their right to life by taking appropriate measures to control and prevent the outbreak in time.

The activities of several (estimated at around 50) identified and unidentified violent armed groups in middle Terai and eastern hill districts remained a

serious challenge during the year. The groups were involved in criminal activities such as killing, abduction, extortion, road



NHRC monitoring team interacting with inmates in Pokhara

blockade, ransacking and confiscating private and public property. Some were also involved in killing and intimidating human rights defenders and media persons.

In response security personnel took action in which a number of people were killed or physically harmed. Many people were arrested and detained. NHRC has been receiving complaints that many of them were tortured during detention and interrogation.

The cramped conditions of prisons and detention centers have become a serious problem, particularly in the Terai districts. The use of excessive force by security personnel is another major problem. Information reveals that security forces have often violated international norms and legal procedures such as the rule of *search and seizure* during search and arrest of suspects linked with armed groups.

The NHRC, along with the National Women Commission and CSO, monitored the incident in which a school principal, her friends and relatives committed a brutal act of violence against a dalit woman. At first the victim was accused of practising witchcraft and severely beaten and forced to leave the village. When she denied the allegation, she was forced to eat human excreta. The woman was eventually rescued from her village in Lalitpur and brought to Kathmandu with the help of human rights defenders.

Implementation Status of the CPA

As stated in the Comprehensive Peace Agreement (CPA), NHRC monitored the implementation of the CPA signed between the GoN and the CPN-M. NHRC has published a report on the status of implementation of the CPA by the government and the CPN -M.



NHRC team talking to victims' family members in Kathmandu

The whereabouts of 970 persons disappeared during the conflict are still unknown. Of them, 671 persons were disappeared by the state and the remaining 299 by the CPN-M.

The NHRC report indicates that the performance of both the GoN and the CPN-M has been unsatisfactory. Neither party has fully complied with the CPA. They must show commitment to the CPA in both word and deed to ensure that Nepal transforms into a democracy where human rights and fundamental freedoms can be realized.

Both the government and the CPN-M have been very slow to implement the provisions of the CPA Clause 5.2.3 of the CPA provides that both the parties would "*prepare the details of the*

disappeared persons or those killed in the conflict with their name, surname and residential address and publicize it within 60 days from the day of signing this agreement and inform the family members of concerned persons". But neither of the parties, however, disclosed the whereabouts of disappeared and abducted persons within the specified 60 days. Also the Supreme Court decision for the establishment of Disappearance Commission and interim relief to the family of disappeared people is yet to be implemented.

In addition clause 5.1.4 of the accord provides that *"both parties shall inform each other about the demarcation and storage of ambush or mines planted during the war period within 30 days and help each other to diffuse or dispose them off within 60 days"*. Again, neither party seemed prepared to implement this clause. Following the signing of the peace accord, the NHRC has documented 27 cases of death and many cases of injury caused by landmines.

Despite commitments expressed through the CPA, no serious efforts have been made to ensure that the thousands of IDPs can return home. Most of the private and public properties seized during the conflict by the CPN-M and its sister organizations are yet to be returned to the owners. The National Peace Commission has not been formed yet. Due to lack of consensus, the plan of providing relief and rehabilitation to IDPs has not yet materialized.

The peace accord states that a Truth and Reconciliation Commission would be formed to address the issues of violations of human rights and humanitarian law during the conflict. But no such commission has been formed yet .

Major Deliveries

In the past year NHRC carried out various activities as part of its strategic plans and its annual projects. Some of the major activities are as follows:

- Investigated 77 incidents of violation of human rights.
- Monitored 194 incidents of suspected human rights violation across the country.
- Investigated the suspected sites of burial of disappeared persons at different locations with the help of the Nepal Police and forensic experts.
- Settled 82 complaints and recommended the government to provide compensation to the victims or their relatives, and to take other appropriate action such as prosecuting the culprits.
- Settled 531 complaints regarding 5623 persons (potential victims) of which 21 were dismissed and seven are pending.
- Held dialogues with government officials at various levels including ministers, Chief of Nepal Army, secretaries of various ministries, heads of security offices,



Chairperson Upadhyay welcoming premier Madhav Kumar Nepal at International HR Day Program on Dec 10, 2009

international agencies such as OHCHR, UNDP, FAO, diplomatic agencies, etc. on the issues of rights violation. The issues included killing, abduction, internal displacement, disappearance, security threats, road blockade, respect for the verdict of courts and violation of the right to health care (due to possible supply of contaminated food grains) as well as issues of state accountability and social responsibility toward people, etc.

- Prepared, published and disseminated nine reports on various themes, seven IEC related and promotional documents, 12 monthly issues of *Human Rights Post*, and the NHRC Annual Report.
- Held 151 advocacy programs with the CSO, development actors and state agents through seminar, workshop, interaction, and so on.
- Participated in a large number of programs organized by the government, security agencies, CSO, international organizations in the capacity of expert, keynote speaker, trainer, or participant.
- Established one regional office and three sub-regional offices in different locations in order to expand NHRC's outreach programs.
- Held three international events on the rights of the child, protection of human rights defenders and the right to information and communication.

- Provided recommendations to the government on major policy issues such as the ratification of Rome Statute of ICC, abolition of harmful traditional practices as *Haliya* and *Kamlari* systems.

Major Achievements

At national level, some significant achievements were made during the year. The government ratified the long awaited disability Convention. The Legislature Parliament enacted the Bill relating to violence against women into an Act. This initiative has been hailed as a milestone for strengthening Nepali women's rights and interests. Besides, the government declared the year 2010 'the year of violence against women'.

The cabinet has laid emphasis on the implementation of NHRC recommendations. The government has allocated nearly 70 million rupees as reparation amount to victims of human rights violation. The Ministry of Home Affairs put in place a security strategy to strengthen the security system in compliance with the law and principles of human rights. However, most of the recommendations for prosecuting and taking departmental action against human rights violators have yet to be implemented.

Major Challenges

The NHRC carried out its activities despite numerous challenges. Some of them include:

- Prevailing culture of impunity.
- Threat to safety and security of life and property of common people due to increased level of abduction, killing and extortion.
- Failure to make public the status of persons disappeared and abducted during the conflict.
- Slow progress on the return of public and private properties seized by the then CPN-M.
- Lack of conducive atmosphere for IDPs to return home.
- Delay in the formation of TRC and Peace Commission.
- Non-implementation of NHRC recommendations.

- The End -